

CASE STUDY #1

A small clinic in one of the northeastern counties in Wisconsin has many Hmong patients the clinic doctors have treated for many years. One of the Hmong patients, who is not covered by Medicaid, requested an interpreter when she made an appointment with her regular doctor, the clinic's Internist.

1. He had been treating the whole family for many years and was very familiar with their medical history. There were no problems with communication in the past.
2. The patient has never asked for an interpreter before, but she was told by a Hmong nurse in her community that she could request for one. In the past, she always brought her 15 year old daughter to interpret for her, and the clinic thought this was appropriate because her on-going problem was an ear infection that could be treated with antibiotics. Upon hearing of the request for an interpreter, the Internist said that he would only see her if she brought her daughter with her.
3. The Internist then called the Hmong nurse to explain that he has had problems with the family in the past because they did not always show up for their appointments, and he could not afford to hire an interpreter if they missed the appointment.
4. The nurse said that this Hmong patient was often confused about after-care instructions and had other questions for the doctor. Her daughter could not ask these questions for her.
5. The following week, the Internist called the Hmong nurse to complain that the patient did not show up for her appointment.

Additional Facts

The clinic has provided care and treatment to the Hmong community for almost 20 years, and they have never had complaints. The Hmong nurse has experience working with the health care community in the county so that interpreters are available 24 hours, 7 days a week. Her community-based organization held educational workshops in the community to explain health care issues.

Case Study # 1

Questions to consider:	Response:	
	Pre-session Notes	Session Discussion
1. What is the complaint? Is it legitimate?		
2. What federal and/or state laws apply, if any? Why?		
3. What other facts or questions must you consider?		
4. Depending on your role in the organization, how would you go about investigating this complaint?		
5. What other services or benefits could should have been offered in this situation?		

Who does what to resolve the complaint?

Who (Agency Head, EOC, LEPC, Complaint Coord., Front Line Staff)	What steps must be taken to resolve these issues?	
	Pre-session Notes	Session Discussion
Front Line Staff		
EOC		
LEPC		
Agency Head		

Resolution/Remedy – steps that need to be taken:

Pre-session Notes	Session Discussion

CASE STUDY # 2

Jennifer Taylor, a Native American, filed a complaint against the County Mental Health Center for discrimination based on race when she attempted to access mental health services at the County Mental Health Center.

1. Ms. Taylor suffered from a severe episode of depression. She received mental health counseling from the Tribal Health Clinic at the reservation. Her attending tribal health care provider referred her to the County Mental Health Center for further treatment and counseling. .
2. The tribal clinic is approximately 20 miles one way and she had to rely on public transportation or use her bicycle; the County Mental Health Center was more convenient. Ms. Taylor went to the center on her appointed time and day, completed forms and showed a copy of her BadgerCare insurance card. Her address listed her as a tribal member living outside the reservation.
3. Ms. Taylor waited for more than half an hour. The receptionist, when questioned, said the doctor was reviewing her medical records which would take only a few minutes more. After another 15 minutes, she was told that the doctor had to attend to an accident on his way to the health center. To Ms. Taylor, these were excuses to discourage her from seeking health care in the center. She left.
4. Anxious to be pro-active, the center manager called Ms. Taylor to find out why she had left. When Ms. Taylor explained her reasons, the manager stated that their mission was to serve clients who are unable to receive services from any other sources. "If individuals are able to obtain services through other entitlement programs, i.e., veteran or tribal services, they are asked to seek services there." The manager also suggested that Ms. Taylor might feel more comfortable receiving culturally appropriate counseling through the Tribal Health Clinic than she would in the County Mental Health Center.

Additional Information:

Tribal members are considered county residents wherever the tribal reservation is located. Tribal health clinics have varying resources depending on whether or not the tribe has a lot of resources and can fund a full-functioning clinic with appropriate health care professionals. According to a 1987 memorandum of agreement signed by the Indian Health Services, the Center for Medicare and Medicaid Services (formerly HCFA), and the Office for Civil Rights, the payor of last resort is the county, not the Indian Health Services which may act as a funding source if a tribe has no other resources. This arrangement, however, may not be uniformly applied for all counties.

Case Study # 2

Questions to consider:	Response:	
	Pre-session Notes	Session Discussion
1. What is the complaint? Is it legitimate?		
2. What federal and/or state laws apply, if any? Why?		
3. What other facts or questions must you consider?		
4. Depending on your role in the organization, how would you go about investigating this complaint?		
5. What other services or benefits could/should have been offered in this situation?		

Who does what to resolve the complaint?

Who (Agency Head, EOC, LEPC, Complaint Coord., Front Line Staff)	What steps must be taken to resolve these issues?	
	Pre-session Notes	Session Discussion
Front Line Staff		
EOC (Clinic Manager)		
LEPC		
Agency Head		

Resolution/Remedy – steps that need to be taken:

Pre-session Notes	Session Discussion

CASE STUDY # 3

Mrs. Grace G. Nolan is an elderly Medicaid and Medicare recipient because she has certain disabilities covered by both insurance programs. She is also enrolled in the SeniorCare program. At the request of Mrs. Nolan, the local Neighborhood Senior Center arranged a dental appointment for emergency dental work. After going through the list of Medicaid dental providers, the center made an appointment with the closest clinic to her residence. Only two dentists in this clinic accepted Medicaid patients from her side of town. Mrs. Nolan did not drive and had to rely on the SeniorCenter transportation service.

The dental clinic specializes in pediatric dentistry with patients between the ages of 3 to 18 years of age. The clinic turned Mrs. Nolan away when she came on her appointed time. Mrs. Nolan, extremely upset to learn that the clinic would not take her as a dental patient, called the county Equal Opportunity Coordinator to file a complaint of discrimination based on age.

Additional Facts

Medicaid is a federal/state program that pays health care providers to deliver essential health care and long-term care services to frail elderly, people with disabilities and low-income families with dependent children, and certain other children and pregnant women. The Medicaid programs in Wisconsin include Medical Assistance, BadgerCare and SeniorCare. Medicaid is not a welfare program; it is a health insurance program. Only a small percentage of Medicaid recipients receive welfare cash assistance. Without Medicaid, these people would be unable to receive essential services or would receive uncompensated care.

SeniorCare is Wisconsin's Prescription Drug Assistance Program for Wisconsin residents who are 65 years of age or older and who meet eligibility requirements—Wisconsin residency, age 65 or older, income within the prescribed limits of the program.

Dentists may choose not to participate in Medicaid and can turn down new patients as long as the reason is not based on race, color, national origin, gender, and disability. Not all dentists are qualified to treat individuals with certain disabilities.

Medicare is a federal Health Insurance Program for people 65 years of age and older, some people with disabilities under age 65 and people with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a transplant).

Case Study # 3

Questions to consider:	Response:	
	Pre-session Notes	Session Discussion
1. What is the complaint? Is it legitimate?		
2. What federal and/or state laws apply, if any? Why?		
3. What other facts or questions must be considered?		
4. Depending on your role in the organization, how would you go about investigating this complaint?		
5. What other services or benefits could should have been offered in this situation?		

Who does what to resolve the complaint?

Who (Agency Head, EOC, LEPC, Complaint Coord., Front Line Staff)	What steps must be taken to resolve these issues?	
	Pre-session Notes	Session Discussion
Front Line Staff		
EOC		
LEPC		
Clinic Administrator		

Resolution/Remedy – steps that need to be taken:

Pre-session Notes	Session Discussion

CASE STUDY # 4

A complaint against a mid-size county was filed at the Department of Health and Family Services for failure to provide timely economic support to a family. The family consisted of a mother, two children ages 6 and 5 by a previous husband, and a yet-unborn child fathered by her boyfriend. The family claims they were eligible for medical assistance, food stamps, school hot lunches, W-2 participation, disability benefits for a profoundly disabled child, and child support from the natural father. The initial denial of Food Stamps, hot lunches, and W-2 participation resulted in homelessness and limited funds to buy food.

1. The mother and 5 year old son have disabilities. The son was placed in a treatment foster care by the court, but he was eligible, like his sister, age 6, for hot meals at school. However, the school had asked that the son be removed from school because of his violent and unpredictable behavior; at times three to four adults had to control him in class. The mother did not receive counseling or support from the school. The court had a hearing scheduled to determine if the son's condition was due to mental illness or parental abuse.
2. Food stamps were calculated based on the boyfriend's income, which was \$10/hours. The amount was inconsistent month to month. The boyfriend claimed that he could only hold a job for about 3 months at a time. When they had no income, they would stay with friends or be homeless.
3. Child support was difficult to collect because the father of the two children lived in another state and could not be found.
4. According to the complaint, the mother was not allowed by the county to apply for W-2 because she was pregnant at the time. This exclusion was not explained during her initial application.

Additional Facts

- W-2 and Child Support are administered by the Dept. of Workforce Development
- Medical Assistance, WIC, Food Stamps and Child Protective Services are administered by the Dept. of Health and Family Services (DHFS).
- The Hot Lunch Program is administered by the school district.
- The mother's disability limited her ability to respond to paperwork and the timeliness needed during application to programs.
- The family had an advocate who brought the complaint to DHFS. She was given permission to discuss confidential issues.

Case Study # 4

Questions to consider:	Response:	
	Pre-session Notes	Session Discussion
1. What is the complaint? Is it legitimate?		
2. What federal and/or state laws apply, if any? Why?		
3. What other facts and questions must you consider?		
4. Depending on your role in the organization, how would you go about investigating this complaint?		•
5. What other services or benefits should have been offered in this situation?		

Who does what to resolve the complaint?

Who (Agency Head, EOC, LEPC, Complaint Coord., Front Line Staff)	What steps must be taken to resolve these issues?	
	Pre-session Notes	Session Discussion
Front Line Staff		
LEPC		
EOC		
Complaint Coord		
Agency Head		

Resolution/Remedy – steps that need to be taken:

Pre-session Notes	Session Discussion
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CASE STUDY #5

Ms. Pat Jansen, a legally blind person, filed a complaint against Saint Clotilda Community Hospital for refusing emergency medical attention on two separate occasions while she was assisted by her service dog.

1. On her first visit, ER staff refused to treat her because dogs were not allowed in the ER. She informed hospital staff that her dog was a trained service animal but despite her assurances, ER staff refused to allow her into the ER for emergency health care.
2. Ms. Jansen called the hospital administrator to complain about ER's refusal to allow her service animal into the ER. The administrator assured her that he would write a memo that will allow the service animal into the ER for succeeding visits.
3. Three months later when Ms. Jansen needed ER care, the same situation occurred, i.e., her service animal was not allowed into the ER. She placed another call to the hospital administrator, but now he informed her that if she wanted medical attention from the hospital, "the dog had to go."
4. A Police Officer intervened for the ER staff and asked Ms. Jansen for her service dog's certificate of training. Ms. Jansen could not produce a certificate nor a valid credential.
5. Ms. Jansen lived within close proximity to the hospital, and the Officer took her dog home. She returned with Ms. Jansen's walking cane. Ms. Jansen received medical treatment after the service animal was removed from the hospital.
6. Ms. Jansen claimed that she suffered a severe injury to her hands requiring surgery when she fell during her walk home from the hospital.

Additional Facts:

Saint Clotilda Community Hospital is owned and operated by the Good Samaritan Sisters and governed by a Board of Trustees made up of lay persons. The hospital is a Medicaid and MediCare provider but claims exemption from Title III of the Americans with Disabilities Act of 1990 that requires facilities open to the public be both programmatically and physically accessible to persons with disabilities.

Case Study # 5

Questions to consider:	Response:	
	Pre-session Notes	Session Discussion
1. What is the complaint? Is it legitimate?		
2. What federal and/or state laws apply, if any? Why?		
3. What other facts or questions must you ask?		
3. How would you go about investigating this complaint?		
4. What other services or benefits could should have been offered in this situation?		

Who does what to resolve the complaint?

Who (Agency Head, EOC, LEPC, Complaint Coord., Front Line Staff)	What steps must be taken to resolve these issues?	
	Pre-session Notes	Session Discussion
Front Line Staff		
EOC		
LEPC		
Agency Head		

Resolution/Remedy – steps that need to be taken:

Pre-session Notes	Session Discussion

CASE STUDY #6

A Legal Services Corporation (LSC) filed a complaint on behalf of a client who applied for TANF/ W2 services and benefits in LaFollette County. Their client is suing the county for failure to provide services that she was eligible to receive. The complaint asserts that the following series of events took place over several months:

- The client applied for and received W-2 services during the Fall of 2004.
- The W-2 Agency closed the case in the winter of 2004 because the client missed a number of scheduled appointments.
- After the case was closed, the client informed the W-2 Caseworker that she needed financial assistance.
- The Caseworker advised the client to contact a "Resource Specialist."
- The client met with the Resource Specialist. The Agency sent Medical Capacity Forms to the client's physician.
- Once the physician returned the forms to the Agency, the Caseworker requested that the physician provide additional information regarding the client's "restrictions."
- The Caseworker also requested that the client provide financial statements for her minor children and an adult child.
- A case comment in the computer record stated that, "W-2 remains closed until the client provides the information requested and meets with the Financial Employment Planner (FEP)."
- About a month later when the client attempted to comply with the Agency's request for information, she was instructed to provide "further information."
- The Agency finally "re-opened" the case early in the Spring of 2005.

Additional Facts:

The client suffers from a seizure disorder, chronic pain syndrome, depression and anxiety disorder. Her physician indicated significant walking, standing and lifting restrictions. Medication prescribed for treating these conditions affects memory and concentration. Additionally, physician statements describe the client as anxious and easily overwhelmed, with a low tolerance for frustration, difficulty in communicating needs, being around other persons, making decisions and coping with unfamiliar environments.

Case Study # 6

Questions to consider:	Response:	
	Pre-session Notes	Session Discussion
1. What is the complaint? Is it legitimate?		
2. What federal and/or state laws apply, if any? Why?		
3. What other facts and questions must you ask?		
4. Depending on your role in the organization, how would you go about investigating this complaint?		
5. What other services or benefits could should have been offered in this situation?		

Who does what to resolve the complaint?

Who (Agency Head, EOC, LEPC, Complaint Coord., Front Line Staff)	What steps must be taken to resolve these issues?	
	Pre-session Notes	Session Discussion
Front Line Staff (Caseworker)		
EOC/Complaint Coordinator		
Agency Head		

Resolution/Remedy – steps that need to be taken:

Pre-session Notes	Session Discussion

CASE STUDY # 7

These are two fair employment cases involving Native American exclusions and exemptions that an employment and training agency may have to deal with:

Situation A. An employee was terminated from the Mohegan Casino and Tribal Business Office on the Blue Cliff Indian Reservation. The employee complained that his termination lacked just cause and that members of the Tribe abetted this discrimination. The complainant asserted that the Job Order that he relied on to obtain the job failed to clearly identify remedies that were available to employees “wrongfully discharged.”

Situation B. An applicant applied for the position as a “croupier,” for Mohegan Enterprises Inc. on the same reservation. She did not get the job. When she inquired about the non-selection, she was informed that several Tribal candidates had applied for the position and that one of these applicants was eventually selected. The reason given was that Mohegan Enterprises, Inc. was a sovereign Tribal entity and had exercised a permissible “employment criterion” reasonably designed to further the cause of Indian self government. The applicant contacted the Equal Rights Division (ERD) of the Department of Workforce Development (DWD).

Additional Facts

- The DWD Equal Rights Division is responsible for the compliance to the Wisconsin Fair Employment Law that prohibits discrimination in **employment conditions** based on age, ancestry, arrest and conviction record, color, creed, disability, gender or sexual orientation, marital status, military service, national origin, pregnancy or child birth, religion, use of legal products during work hours, and unfair genetic and honesty testing.
- Passages of (I) the ***Native American Job Order Policy***
The preference or criterion is similar in kind to the constitutional requirement that a United States Senator when elected be “an inhabitant of the State for which he shall be chosen.... (It) is granted to Indians not as a discrete racial group, but rather...because of their legal status...as members of quasi-sovereign tribal entities.” (25 U.S.C. 461, The Wheeler-Howard Act, the Indian Reorganization Act)

Case Study #7

Questions to consider:	Response:	
	Pre-session Notes	Session Discussion
1. What is the complaint in Situation A? Is it legitimate?		
2. What is the complaint in Situation B? Is it legitimate?		
3. What other facts or questions must you ask?		
4. Depending on your role in the tribal organization, how would you go about investigating this complaint?		
5. What other services or benefits could/should have been offered in this situation?		

Who does what to resolve the complaint? Assume that the Equal Rights Division contacted the Tribe as the Respondent of the complaint.

Who (Agency Head, EOC, LEPC, Complaint Coord., Front Line Staff)	What steps must be taken to resolve these issues?	
	Pre-session Notes	Session Discussion
Tribal EOC		
Agency/Tribal Head		
EOC		
Agency Head		

Resolution/Remedy – steps that need to be taken:

Pre-session Notes	Session Discussion

CASE STUDY # 8

Hua Vang, a Hmong bilingual Human Services worker for the Village of Los Mismos Cuentos Viegos, works in the WIC program that offers health and nutritional services to women, infants and children. Mr. Vang was hired as one of two full-time bilingual workers in response to its large Hmong community. The village also has a language line. However, Mr. Vang stated that village staff—the nutritionist, the receptionist, his supervisor, the program director and the Human Services administrator—continuously violate Title VI of the Civil Rights Act that prohibits discrimination based on national origin.

1. Mr. Vang filed a discrimination complaint with the State Department of Health and Family Services. He claimed that the village Human Services discriminated against Hmong clients and discriminated against him as an employee.

His co-workers made comments like:

- “If they want to live in America, they should be forced to learn English.”
 - “We should not be made to provide interpreters.”
 - “We bend over backwards to provide opportunities and provide care for minorities.”
 - “We make it very easy for them to be lazy when we have to provide interpreters.”
2. The Hmong clients complained that the receptionist would not schedule them for appointments if Mr. Vang was unavailable to interpret for them. She would simply hang up on them. The nutritionist did not spend enough time to help them understand how to modify their diet.
 3. Mr. Vang brought the complaints to management and discussed the issues during staff meetings. He was labeled as a complainer and not a team player. They felt that it was reasonable to ask LEP walk-in clients to return when Mr. Vang was available to interpret for them, or to come on the scheduled day per week when LEP clients were provided services.
 4. Despite his complaints, the two co-workers continued to make what he perceived as racist remarks. The Hmong clients continued to complain that on days he was not at work, the receptionist would continue to hang up on them.
 5. Mr. Vang filed a discrimination complaint against his co-workers and the village Human Services using its internal complaint process. The village conducted an investigation and found no probable cause. After the investigation was completed, Mr. Vang was informed that his position was cut from full time to part time, and consequently, he lost his insurance benefits.

Additional Facts

1. DHFS has no jurisdiction over discrimination in employment conditions (Title VII). Where should Mr. Vang be referred to for his own discrimination complaint?
2. Can Mr. Vang complain in behalf of the Hmong clients if he is an employee of the village Human Services?
3. Under 7 CFR Subtitle A Part 15.7, intimidation or retaliatory acts are prohibited. “No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act (Title VI) or the regulations in this part, or because he has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under the regulations in this part.”
4. A Tangible Employment Act occurs when a change in the job has an adverse effect on the employee, e.g., cut in time, salary and benefits, or a change in job functions that would be onerous enough for the employee to result in his or her resignation.
5. USDA requires that complaints be filed directly to Washington D.C. offices, but these can be submitted also to the state (DHFS), and USDA/OCR-Region 5 in Chicago.

Case Study # 8

Questions to consider:	Response:	
	Pre-session Notes	Session Discussion
1. What is the complaint? Is it legitimate?		
2. What federal and/or state laws apply, if any? Why?		
3. What other facts and questions must you ask?		
4. Depending on your role in the organization, how would you go about investigating this complaint?		
5. What other services or benefits could should have been offered in this situation?		

Who does what to resolve the complaint?

Who (Agency Head, EOC, LEPC, Complaint Coord., Front Line Staff)	What steps must be taken to resolve these issues?	
	Pre-session Notes	Session Discussion
Front line staff		
LEP/Complaint Coordinator		
EOC/Complaint Coordinator		
Agency Head		

Resolution/Remedy – steps that need to be taken:

Pre-session Notes	Session Discussion

CASE STUDIES # 9

DISCRIMINATION THEORY SCENARIO

Two theories or concepts, neither mutually exclusive, are used as the basis for analyzing discrimination claims under federal laws and state statutes. These theories are disparate impact and differential treatment.

- Disparate Impact is a statistical measure where a “significant” number of cases or instances are used to determine whether the rate at which members of legally “protected classes” is treated differently from members of the majority or predominant population.
- Differential Treatment happens when a “protected class” member is treated differently from a member of the majority or predominant population.

Case Studies:

- A. A county Food Stamp Program serves 1,000 participants. Of the 1,000 participants, 850 are White and 150 are Black. Of the 850 White participants about one-third (280 participants) were required to provide additional documentation after applying for the program to establish eligibility. Of the 150 Black applicants about two-thirds (99 participants) were required to provide additional documentation to establish eligibility. Since the ratio at which Blacks were required to provide additional documentation was one-third higher or twice the rate of that for the White majority group, is this an example of Disparate Impact?
- B. Two individuals go to the Food Stamp Office in an effort to apply for Food Stamps (Food Share). The first individual is not ambulatory, uses a wheel chair and has a speech impediment that makes it difficult for people to understand him. The receptionist informs the applicant that the Office cannot serve him that day, but that a case worker will follow-up with an “interpreter” to assist with his Food Share application. The second individual is sent immediately to an intake worker to process her application. What is this an example of?

Additional Facts:

For Case A, statistics that could show a pattern of client services data broken down by majority/minority status have not been collected for more than 5 years. The demographic data for the county's service area were updated in 2002.

For Case B, this particular county building went through a facility rehab in 1995. The county reported that they followed the ADA Accessibility Guidelines (ADAAG). The county submitted its Civil Rights Compliance Plan that was approved by DWD in 2003. Regardless, the county has received a number of complaints for inaccessibility to services. The Wisconsin Coalition for Advocacy filed a class action suit representing their clients with disabilities with the Equal Rights Division and the US DHHS Office for Civil Rights.

- Do the alleged discriminatory requirements have a history that can be traced? Why was this done?
- Were there other issues that should be considered when looking at the uneven ratio?

Were there other minority groups that went through additional documentation? What vital information was missing from existing records?

Case Studies # 9

Questions to consider:	Response:	
	Pre-session Notes	Session Discussion
1. What is the complaint? Is it legitimate?		
2. What federal and/or state laws apply, if any? Why?		
3. What other facts or questions must you ask?		
4. Depending on your role in the organization, how would you go about investigating this complaint?		
5. What other services or benefits could should have been offered in this situation?		

Who does what to resolve the complaint?

Who (Agency Head, EOC, LEPC, Complaint Coord., Front Line Staff)	What steps must be taken to resolve these issues?	
	Pre-session Notes	Session Discussion
Front Line Staff		
EOC/Complaint Coordinator		
Agency Head		
LEP Coordinator		
Complaint Coordinator		

Resolution/Remedy – steps that need to be taken:

Pre-session Notes	Session Discussion